

Inspector General cites FirstNet contracting issues during first year

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December 9, 2014

An audit of [FirstNet](#) 's actions during its first 14 months of existence revealed multiple administrative problems in executing government policies and an unidentified board member exerted "undue influence" on a contractor's hiring practices during this period, according to a report released today by the office of the Inspector General (IG) for the U.S. Department of Commerce.

The IG's office conducted the audit after then-FirstNet Chairman Sam Ginn made the request last fall. At that time, an internal committee of FirstNet board members had just determined that [April 2013 allegations from FirstNet board member Paul Fitzgerald](#) that the board was not acting with appropriate openness or transparency [were unfounded](#).

Consideration of Fitzgerald's other allegations—that some board members may have conflicts of interest and that the hiring of consultants/contractors was not being done appropriately—were given to the IG's office for its review.

In its audit report, the IG's office noted that one board member failed to "disclose an interest in a conflicting company," another filed the form five months late, and that two other board members submitted inaccurate attendance records, "in one case to avoid filing the required public financial disclosure," a summary of the IG report states.

"All four of these board members continued to engage in decision making, even though they were not in compliance with the financial-disclosure requirements," the summary states.

Also in the audit report, the IG found that FirstNet's contracting practices at the time "lacked transparent award competition, sufficient oversight of hiring, adequate monitoring, and procedures to prevent payment of erroneous costs," according to the report summary."

Two contracts with small-business contractor Workforce Resources Inc. (WRI) were executed without proper oversight, “resulting in approximately \$11 million in unsupported costs to the government,” according to the report summary. The final WRI agreement—awarded in March 2013 for \$8.4 million—was awarded on a sole-source basis via the [National Institute of Standards and Technology](#)

(NIST) based on the notion that the “procurement was unusual, urgent and compelling; that any interruption in services would set FirstNet back six months; and that the cost of the interruption would be significantly high.”

But the IG office disagreed with this assessment, stating in the audit report that there were no specific timeframes that FirstNet needed to meet, based on the law passed by Congress that established FirstNet. Without these timeframes, “FirstNet did not adequately justify how its hiring of consultants under [the final WRI contract] to perform technical planning, business planning, market research, and outreach activities was an urgent matter that was unusual and compelling,” the IG report states.

In addition, an unidentified [FirstNet](#) board member—identified in the report only as “FirstNet board member A” and as someone “who was also given certain operational responsibilities”—“inappropriately directed WRI hiring actions” of subject matter experts (SMEs) associated with awarding a contract to WRI in November 2012.

“Specifically, FirstNet directed WRI via [NIST](#)’s contracting office to include a total of 16 SMEs in its proposal. On Nov. 6, 2012—9 days prior to contract award—NIST e-mailed WRI, a spreadsheet containing the names of 14 SMEs,” the IG report states. “In addition, NIST also confirmed that 12 of the 16 SMEs included in the proposal were recommended directly by a FirstNet Board member, while the other 4 SMEs were transitioned in from the previous engagement with [another FirstNet contractor].

“The actions taken by the government give the appearance that, in order to be awarded the contract, WRI was required to hire the SMEs recommended by the government.”

Because these SMEs remained as independent contractors instead of becoming WRI employees, WRI actually was no longer eligible to be awarded the contract as a small-business entity, according to the IG report.

Another problem with the FirstNet contract with WRI was the fact that “FirstNet board member A” directly assigned tasks to a subject-matter expert prior to the person being hired by WRI, the IG report states.

“The SME proceeded with the work based upon the verbal authorization of FirstNet board member A,” the IG report states. “Because WRI had not hired the SME and had no knowledge of board member A’s action, it did not have supervision or control of the SME. WRI did not become aware of the hiring action until the SME presented the contractor with an invoice, for the period March 18–April 17, 2013, that included 142 hours totaling \$16,756 charged in unauthorized time and \$692 in unauthorized travel costs (\$17,448 total that the government paid).

“Based on the board member’s direction on April 13, 2013, the [contracting office representative] authorized a start date for the SME effective April 15, 2013. Commitments not authorized by law can have serious repercussions for the government—and can be the basis of legal disputes between the government and the contractor, which may result in personal liability for the individual who made the commitment.”

In the joint reply, [FirstNet](#), [NTIA](#) and the Department of Commerce acknowledge that “administrative errors were made” and that the entities all concur with the recommendations of the IG office to address the perceived shortcomings. However, the joint reply also notes that the IG report “does not identify any violations of conflict-of-interest laws or circumstances that actually affected FirstNet decision making.”

Jim Hock, a spokesman for the U.S. Department of Commerce, noted that many of the problems cited in the IG report resulted from the fact that FirstNet was a startup organization—one in which board members were taking operational responsibility, because FirstNet did not have a staff.

“As in any startup organization, we recognize that in the early stages of FirstNet there were administrative missteps and areas where documentation could have been improved,” Hock said in a prepared statement. “We concur with the [IG] report’s administrative recommendations, most of which are in place already.

“These issues, however, were specific to the unique circumstances that existed during FirstNet’s early startup operations, and we continue to take the steps necessary to ensure the integrity of the ethics program and contracting policies and procedures utilized by FirstNet. FirstNet today is on the right path toward meeting its statutory obligations and deploying a public-safety broadband network for the nation’s public-safety personnel.”

FirstNet Chairwoman Sue Swenson issued a statement through a [blog post on FirstNet’s website](#)

Swenson said organization leaders agree with the report’s recommendations and that many have already been implemented.

“FirstNet is a unique organization, charged with a significant task—to build the first-ever broadband network for the nation’s public-safety community,” Swenson wrote in her blog. “No organization has accomplished what we have set out to do. We acknowledge some administrative missteps were made in the early days, and we have taken and will continue to take steps to address them.”

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